

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

OSCAR K. GRIFFIN,)	
)	
Plaintiff,)	
)	
v.)	No. 1:22-cv-02052-JRS-KMB
)	
STATE OF INDIANA IDOC,)	
ARAMARK FOOD SERVICES,)	
BOWEN,)	
HARTZ,)	
ATTERBURY,)	
JANE DOE,)	
JOHN DOE,)	
CENTURION MEDICAL SERVICES)	
PROVIDERS,)	
ARAMARK,)	
)	
Defendants.)	

Order Screening Amended Complaint

Plaintiff Oscar Griffin is a former Indiana prisoner. He alleges in this civil action that the State of Indiana and the other defendants violated his civil rights on numerous occasions by transferring him due to his disability. The Court dismissed his original complaint and gave him an opportunity to file an amended complaint. Dkt. 10. Because Mr. Griffin was a "prisoner" when he filed this action and because he is proceeding *in forma pauperis*, this Court has an obligation to screen the amended complaint before service on the defendants. 28 U.S.C. § 1915A(a), (c).

I. Screening Standard

When screening a complaint, the Court must dismiss any portion that is frivolous or malicious, fails to state a claim for relief, or seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915A(b). To determine whether the complaint states a

claim, the Court applies the same standard as when addressing a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). *See Schillinger v. Kiley*, 954 F.3d 990, 993 (7th Cir. 2020). Under that standard, a complaint must include "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). The Court construes *pro se* complaints liberally and holds them to a "less stringent standard than formal pleadings drafted by lawyers." *Cesal v. Moats*, 851 F.3d 714, 720 (7th Cir. 2017).

II. The Amended Complaint

The amended complaint names thirteen defendants: Indiana Department of Corrections (IDOC), Aramark Food Services (Aramark), Warden Bowen, Warden of Atterbury Work Camp, Jane Doe, John Doe, Warden Rhonda Thomas Harding, Lisa Beck, Mrs. Gilbert, Mr. Foley, Ms. Nutt, Ms. Hess, and Centurion Healthcare of Indiana (Centurion). The complaint alleges the following.

Mr. Griffin is blind. While at Plainfield, he completed training to become classified as a food service worker for Aramark. On November 20, 2020, Mr. Griffin was transferred from Plainfield to Camp Atterbury, but was transferred back to Plainfield a week later because he was told he could not work for Aramark due to his blindness.

Then, on June 18, 2021, he received a sentence modification. But it was revoked on August 13, 2021, because of his disability. Finally, on May 13, 2022, he was transferred to Chain of Lakes work facility with the understanding that he was eligible to work in the In2Work program for Aramark, but several weeks later he was again transferred back to Plainfield because Centurion

employees at Chain of Lakes fraudulently changed his medical code from A to F, indicating that he could perform no work duties and could not take care of himself. The Chain of Lakes Aramark supervisor is the person responsible for refusing to let Mr. Griffin work. Caseworker Foley also alerted the warden that Mr. Griffin was blind and could be a liability. Chain of Lakes Warden Hardy made clear to Mr. Griffin that he would never work in the facility's kitchen due to his blindness. Mr. Griffin worked very hard to attain his work certifications despite his disability, and the defendants' refusal to allow him to work is discriminatory. He seeks compensatory and punitive damages.

III. Discussion of Claims

Applying the screening standard to the factual allegations in the complaint, certain claims are dismissed while other claims shall proceed as submitted.

First, all claims against Warden Bowen, Warden of Atterbury Work Camp, Jane Doe, John Doe, Lisa Beck, Mrs. Gilbert, Ms. Nutt, and Ms. Hess are **dismissed** for failure to state a claim. A defendant can only be liable for the actions or omissions in which he personally participated. *Colbert v. City of Chi.*, 851 F.3d 649, 657 (7th Cir. 2017). "Because vicarious liability is inapplicable to . . . § 1983 suits, a plaintiff must plead that each Government-official defendant, through the official's own individual actions, has violated the Constitution." *Iqbal*, 556 U.S. at 676; *Locke v. Haessig*, 788 F.3d 662, 669 (7th Cir. 2015). Mr. Griffin does not allege that any of these defendants were responsible for denying him the opportunity to work in an Aramark kitchen or for violating his constitutional rights in any way.

Second, all claims against Aramark and Centurion are **dismissed** for failure to state a claim. As discussed in the first screening order, entities such as Centurion and Aramark act under color of state law by contracting to perform a government function, *i.e.*, providing medical care or food

services to correctional facilities. Therefore, they are treated as government entities for purposes of Section 1983 claims. *See Jackson v. Ill. Medi-Car, Inc.*, 300 F.3d 760, 766 n.6 (7th Cir. 2002). To state a cognizable deliberate indifference claim against such entity, Mr. Griffin must allege that he suffered a constitutional deprivation as a result of an express policy or custom of the entity. The complaint alleges that particular individuals denied him the opportunity to work but makes no allegations that these decisions were based on company policies or widespread practices.

Third, the IDOC is not a "person" subject to suit pursuant to 42 U.S.C. § 1983. *Thomas v. Illinois*, 697 F.3d 612, 613 (7th Cir. 2012) (citing *Will v. Michigan Dep't of State Police*, 491 U.S. 58, 66–70 (1989)).

Finally, Mr. Griffin alleges that the defendants violated the Americans with Disabilities Act (ADA). But his allegations also state a claim under Section 504 of the Rehabilitation Act. Although the complaint cites only the ADA, "courts are supposed to analyze a litigant's claim and not just the legal theories that he propounds . . . especially when he is litigating pro se." *Norfleet v. Walker*, 684 F.3d 688, 690 (7th Cir. 2012) (holding that complaint stated claim for relief under Rehabilitation Act despite not citing it).

Title II of the ADA prohibits public entities from denying equal services to individuals because of their disabilities. *Discovery House, Inc. v. Concol. City of Indianapolis*, 319 F.3d 277, 279 (7th Cir. 2003). Specifically, Title II states that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." 42 U.S.C. § 12132. As relevant here, Title II defines a "public entity" as "any State or local government, department, agency, special purpose district, or other instrumentality of a State or States or local government . . ." 42 U.S.C. § 12131(1).

Similarly, § 504 of the Rehabilitation Act states, "no otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . ." 29 U.S.C. § 794.

By accepting federal funds for its prisons, Indiana has waived sovereign immunity from suits for damages under the Rehabilitation Act. *See, e.g., Jaros v. Ill. Dep't of Corr.*, 684 F.3d 667, 672 (7th Cir. 2012); *Stanley v. Litscher*, 213 F.3d 340, 344 (7th Cir. 2000). In contrast, there are thorny constitutional questions about whether a State may assert sovereign immunity against an ADA damages suit when the challenged conduct violates the ADA but not the Constitution. *United States v. Georgia*, 546 U.S. 151, 159 (2006).

Because the plaintiff may not recover under both the ADA and the Rehabilitation Act, and because the statutes are functionally identical for the plaintiff except for the question of sovereign immunity, the ADA claims are **dismissed**. *Jaros*, 684 F.3d at 672 ("As a practical matter, then, we may dispense with the ADA and the thorny question of sovereign immunity, since [the plaintiff] can have but one recovery."). Moreover, "employees of the Department of Corrections are not amenable to suit under the Rehabilitation Act or the ADA," *Jaros*, 684 F.3d at 670, so the claims against the individual defendants are **dismissed**. Because the claim is against the state, it shall proceed against the IDOC. The claims against Aramark and Centurion are **dismissed** as duplicative.

IV. Conclusion and Service of Process

Mr. Griffin's Fourteenth Amendment claims against Warden Harding and Mr. Foley and his Rehabilitation Act claim against the IDOC **shall proceed**. This summary of claims includes all of the viable claims identified by the Court. All other claims have been dismissed. If the plaintiff

believes that additional claims were alleged in the complaint, but not identified by the Court, he shall have **through August 31, 2023**, in which to identify those claims.

The **clerk is directed** to terminate Aramark Food Services, Aramark, Warden Bowen, Hartz, Atterbury, Jane Doe, John Doe, and Centurion Medical Services as defendants on the docket. The **clerk is directed to add** Warden Rhonda Thomas Harding and Mr. Foley as defendants on the docket.


The **clerk is directed** pursuant to *Fed. R. Civ. P.* 4(c)(3) to issue process to defendants Harding, Foley, and the IDOC in the manner specified by Rule 4(d). Process shall consist of the amended complaint (dkt. [18]), applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons), and this Order.

The **clerk is directed** to serve the IDOC employees electronically.

Nothing in this Order prohibits the filing of a proper motion pursuant to Rule 12 of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

Date: 08/11/2023



JAMES R. SWEENEY II, JUDGE
United States District Court
Southern District of Indiana

Distribution:

Electronic service to Indiana Department of Correction:

Warden Harding
Caseworker Foley
(All at Plainfield Correctional Facility)

US Mail to:

OSCAR K. GRIFFIN
3242 N. 31 St.
Kansas City, KS 66104